

has no title, but which the parties interested had conferred upon another and different person.

It is manifest, also, that he has gone far beyond the limits to which he must have been confined, even if he could be viewed as the trustee of Costigan and wife, and that if such conduct is sanctioned, the trust estate will, in a very short time, be utterly annihilated, and the rights of the parties entitled in remainder entirely defeated.

The power delegated to this trustee was clearly defined, and has been unquestionably transcended; and I am, therefore, of opinion, that the order of the 12th of May last, must be made absolute.

[No appeal was taken from this decree.]

ROBERT CONN ET AL.	}	MARCH TERM, 1848.
vs.		
JAMES CONN ET AL.		

[POSTHUMOUS CHILD—SEPARATE ESTATE OF MARRIED WOMEN.]

COURTS of equity will use all possible ingenuity to construe testamentary expressions, in such manner as to include all children living at the testator's death; and, a child in *ventre sa mere* is considered as living at that time.

When the testator stands in the relation of parent to the legatees, a court of equity will lay hold of any general expression, which will include all the children, though it may be apparent from the context, that only children in existence when the will was made, were within the contemplation of the testator.

Yet, when it is evident, that the testator really forgot that other children might be born to him, and has, upon the face of the instrument, made provision for only such as were living at the date of the will, it is impossible to supply the defect and give such after-born child any provision, notwithstanding the anxiety of the court to do so.

Where the testator has described the children, by name, among whom the estate is to be divided upon the happening of a contingency, it is impossible to bring a posthumous child within the description.

Before the separate estate of a married woman can be charged for her engagements, it must be shown that her contract was made with direct reference to such separate estate; and she is not to be regarded with respect to such estate, as a *feme sole*, to all intents and purposes, and bound by any form of contract into which she may please to enter, whether made with reference to such estate or not.

It is competent to show the intention of the wife, to charge her separate estate, by parol evidence.